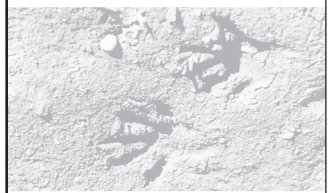




4. Development and Mitigation



4. Development and Mitigation

Introduction

This element of the Plan acknowledges conditions where the community's need for economic development outweighs the benefits to protect certain wetland sites by making them available for development according to the mitigation provisions of this Plan. The Plan views the mitigation process as an opportunity to restore and enhance wetland functions and values of the Amazon Creek basin, while allowing limited development on isolated, lower quality wetlands and meeting the requirements of state and federal wetland law.

The wetlands designated for development were determined through a process that evaluated each wetland against a set of criteria which had the effect of identifying those wetlands that are isolated, low quality and of limited functional value. The criteria used in evaluating sites for possible development are contained in Policy 3.17.

In addition to evaluation by local experts, resource agencies and community members, the relative quality of the west Eugene wetlands was determined by the Wetland Evaluation Technique (WET) program, designed by Paul Adamus of the Environmental Protection Agency. The results of this evaluation are contained in the Technical Report.

The Plan proposes to use the mitigation process to achieve compliance with federal and state wetland law, and to provide a vision and program for incorporating all of the elements of this plan with other related community objectives (flood control, water quality and wildlife habitat enhancement, recreation and education programs) so that a broader goal is achieved – the restoration of the Amazon Creek basin into a community asset.

The basic concepts of the mitigation program are:

- Avoid and minimize impact to all wetland sites that meet the protection criteria contained in Policy 3.17.
- Where impact is unavoidable, compensate for losses commensurate with the level of impact giving priority to establishing the basic physical wetland parameters (water, topography, connectedness) that eventually results in full functioning and diverse wetland habitats.
- Establish a management entity that will monitor, maintain and enforce the requirements of the mitigation program.



- Where full functioning wetlands are to be impacted, in-kind replacement of significant functions and values will be required. The overall mitigation program, however, will be guided by the ecological characteristics of the regional landscape and not necessarily by specific case-by-case impacts. For disturbed agricultural wetlands, mitigation requirements will be determined using historic wetland types presumed to have existed prior to disturbance and the desired mix by the public. Incentives will be provided to mitigate in advance of impact in the form of replacement ratios which are less than the ratios for compensating at the time of impact.

- To increase the certainty of success and to achieve the goal of a connected system of wetlands and waterways, mitigation efforts are targeted for areas that once exhibited, or currently exhibit, proper wetland soils and moisture conditions. Within the WEWP boundary, the primary mitigation sites are “disturbed agricultural wetlands.” These sites are missing at least one of the three wetland parameters (water, hydric soil, wetland vegetation) and due to non-wetland activities (agricultural uses) occurring on these sites, their existing wetland value is relatively low. As such, for mitigation credit purposes, the Plan gives more credit for the enhancement of these sites than for other “low” quality wetlands that exhibit all three wetland parameters.

- The primary means to achieve the Plan's mitigation goals is through the establishment of a regional wetland mitigation bank. These are areas where the most suitable lands for mitigation are identified, acquired, designed, constructed and managed in advance of wetland impact, and incentives are provided that encourage the use of the bank by those seeking a wetland impact permit. Because the Plan will enhance and restore more wetland acreage, functions and values than will be lost to development, the excess capacity will be available for mitigation credit to properties located outside the west Eugene study area and within the Urban Growth Boundary, and to the Eugene Airport proper.

Photo: Protected wetlands adjacent to the Burley Design Cooperative building. (photo by N. Björklund)

Goals, Policies, Recommended Actions

Goals

- 4.1 Use the wetland mitigation process as an opportunity to achieve multiple community objectives, including wetland resource enhancement, increased flood control capacity, water quality enhancement and the establishment of educational and recreational programs.
- 4.2 Use the wetland mitigation process as an opportunity to reverse the trend of wetland losses and begin a positive trend of wetland gains by restoring and enhancing the historic wetland system of the Amazon Creek watershed.
- 4.3 Achieve compliance with federal and state wetland law, policies and guidelines.
- 4.4 Increase certainty in the development process.
- 4.5 Minimize reductions to the existing industrial and commercial buildable lands inventory as a result of wetland protection.
- 4.6 Provide for the overall wetland mitigation needs for the community of Eugene, including the territory within the Urban Growth Boundary and Eugene Airport.
- 4.7 Mitigation projects will occur within the area of the Long Tom River watershed and its tributary streams, as shown on Study Area Map (Map 2).
- 4.8 Historic wetlands and disturbed agricultural wetland sites are the preferred areas for mitigation projects.
- 4.9 Establish, develop and maintain a regional wetland mitigation bank program that will establish a mitigation credit system for serving the West Eugene Wetlands Plan, the balance of the Eugene Urban Growth Boundary and the Eugene Airport proper.
- 4.10 To be eligible for participation in the mitigation bank, wetland impact requests must be consistent with the goals, policies and provisions of this Plan.
- 4.11 Require all mitigation efforts to participate in a comprehensive monitoring and maintenance program.
- 4.12 Develop a system that provides security against unsuccessful mitigation efforts, such as a bond or other financial guarantee.
- 4.13 Amend applicable City codes, policies and maintenance operation procedures to comply with the provisions of this Plan and implementation measures.
- 4.14 All mitigation must be completed in advance or concurrent with development, except as otherwise provided in approved standard individual wetland permits or signed intergovernmental agreements between the City, the Oregon Division of State Lands and the U.S. Army Corps of Engineers.

Policies

Mitigation

- 4.1 Mitigation efforts shall help to reestablish a connected system of wetlands, waterways and upland resources.
- 4.2 To insure long-term success, mitigation efforts shall give priority to establishing or reestablishing the basic hydrologic conditions necessary to meet the stated mitigation objectives.
- 4.3 Mitigation efforts shall concentrate on restoring wetland type, habitat, functions and values that represent the historic, ecological landscape of the Amazon Creek basin.
- 4.4 Mitigation efforts shall use local, native plant species.
- 4.5 Mitigation efforts shall be designed and constructed to minimize the level of on-going maintenance.
- 4.6 Develop, adopt and implement a comprehensive wetland mitigation program.
- 4.15 Unless on-site mitigation would better meet the goals and policies of this Plan, mitigation efforts shall occur according to the provisions of the regional mitigation bank provisions.
- 4.16 Enhancement of existing wetlands can be used to add functional credits to the wetland mitigation bank.
- 4.17 The City of Eugene shall calculate mitigation requirements for all wetland impacts within the West Eugene Wetlands Plan area using the applicable ratio from Table 1 below, subject to the provisions in A through D below. In no case shall a ratio of less than 1:1 be allowed.
 - A. For impact sites with recent disturbance, the City of Eugene shall determine mitigation ratios based upon an analysis of habitat type on the site as of April 2, 1999, as determined by aerial photo analysis. No reduction in ratios for fair to poor quality habitat shall be allowed for recently disturbed impact sites.

B. The City of Eugene shall calculate mitigation requirements for impact sites with more than one habitat type by multiplying the appropriate ratio by the number of acres impacted for each habitat type and summing the resulting acreage for each habitat type.

C. Ratios shown in Table 1 for wet prairie, shrub/scrub, forested and emergent wetlands are for impacts to good to excellent quality habitat. Impact sites that contain one or more plant species designated as rare in the West Eugene Wetlands Plan shall be considered good to excellent habitat. Impact sites containing these habitat types of fair to poor quality can be evaluated for lower replacement ratios only if the applicant submits field data according to the following provisions:

- (1) Habitat quality shall be determined by the City of Eugene, based upon field conditions as represented in field data submitted by the

applicant on forms provided by the City. Field data shall be collected between May 1 and July 30 by a qualified professional, shall include distribution data for all plant species present and shall include data from sampling points in the center of the wetland area.

- (2) For sites containing wet prairie, shrub/scrub, forested and emergent wetlands of fair quality the ratio can be reduced by 0.25:1 and for sites containing these habitat types of poor quality the ratio can be reduced by 0.5:1.

D. The ratios for privately constructed mitigation (i.e., not purchased through a state/federal approved wetland mitigation bank) are based upon construction of the mitigation concurrent with the permitted filling of a wetland. If private mitigation is constructed prior to the wetland impact, the ratio can be reduced by 0.25:1.

Table 1
Mitigation Replacement Ratios
for Good to Excellent Quality Habitat
(Mitigation acres: Impact acres)

Wetland Habitat Type (impact site)	Private Mitigation			Mitigation ² Bank
	Restoration ¹	Creation	Enhancement	
Wet Prairie	2:1	2.25:1	2.5:1	1.75:1
Other Wetland Types: shrub/scrub, emergent, forest	1.5:1	1.75:1	2:1	1.25:1
Disturbed Wetlands: Agricultural, crop land, pasture, old field, fill	1:1	1.25:1	1.5:1	1:1

Notes:

(1) Restoration is the preferred mitigation method for the West Eugene Wetlands program. To encourage restoration, it is given the lowest ratio of the three mitigation methods.

(2) This column shows the mitigation replacement ratios that will apply to those who are meeting their mitigation requirements through a public or private mitigation bank or mitigation bank program approved by the Oregon Division of State Lands and the U.S. Army Corps of Engineers (i.e., these ratios apply to “customers” of the “bank”). Participants in the mitigation bank pay a fee into the “bank” in lieu of constructing their own mitigation project. The mitigation replacement ratio determines how many acres of mitigation credit must be purchased for each acre of wetland impact. The ratio does not address how credits are produced by the bank. The ratios are lower than for private mitigation because state and federal approval of mitigation banks requires that the majority of mitigation projects be constructed prior to selling credits.

- 4.18 Either on a regional or case-by-case mitigation basis, develop better information as to existing wildlife habitat values and a mechanism, such as the modified Habitat Evaluation Program (HEP), to measure future wildlife gains on mitigation sites.
- 4.19 Guided by the Conceptual Plan Map (Map 4), a three-year capital improvement plan will be prepared for the Mitigation Bank program, identifying mitigation sites, mitigation methods to be undertaken, number of mitigation areas, and approximate mitigation credits to be realized.
- 4.20 While compensatory mitigation may be achieved through any one mitigation method or combination of methods (i.e., restoration, enhancement, creation), restoration is the preferred method.

Development

- 4.21 Allow development of wetlands that are designated for development on the Wetland Designations Map (Map 3) of the West Eugene Wetlands Plan.
- 4.22 Use the West Eugene Wetland Conservation Plan Inventory Map, as the basic inventory for identifying wetland sites and functions and values to be filled and replaced.
- 4.23 Provide flexibility in the provisions of the mitigation program so that conditions unique to certain properties can be resolved at the administrative level provided the conditions meet the basic intent, purpose, and criteria of this Plan.
- 4.24 Provide wetland technical assistance to the public.
- 4.25 Unless designated as a mitigation site in this Plan or as part of on-site mitigation requirements, buildable lands that are within the UGB and designated for commercial or industrial use should not be used for mitigation.
- 4.26 For application with future mitigation efforts, encourage wetlands identified as future disposal sites for dredged or fill material to be utilized (prior to development) as a source for wetland vegetation and soils.

Administration

- 4.27 Encourage use of regional or local nonprofit agencies to assist in managing and monitoring wetland mitigation and protection efforts.

Recommended Actions

- 4.1 Establish procedures and review criteria for evaluating requests for participating in the WEWP's regional mitigation program. The type of procedure

and level of review should be consistent with the goals and policies of WEWP. Administrative procedures should suffice for projects that are fully consistent with WEWP, while quasi-judicial procedures may be necessary for projects that are not consistent.

- 4.2 Develop and adopt a Comprehensive Wetland Mitigation Program.
- 4.3 Develop wetland mitigation provisions that require a wetland impact permit and mitigation plan to be approved and obtained from the responsible regulatory agencies prior to any activity that may further degrade wetland resources, including drainage modifications, landlord alterations, storage of materials, vegetation removal and construction related activities.
- 4.4 Assist with the restoration of the Lower Amazon Creek wetlands and floodplain area - bounded by Royal Avenue, Terry Street, Greenhill Road and the Southern Pacific Railroad tracks - by supporting the Army Corps of Engineer's restoration project.
- 4.5 Establish a local wetland assistance team to provide technical assistance to the public.
- 4.6 Require a preapplication conference with the wetland assistance team to provide an information exchange concerning the objectives of the applicant and the requirements of the wetland provisions.
- 4.7 Monitor ground water elevations along Amazon Creek, A Channel, Willow Creek, and the A-3 Channel and match hydrologic requirements of mitigation projects with the findings of the monitoring system.
- 4.8 Develop a permit processing system in which the level of review is matched with the proposed magnitude of wetland impact and degree of consistency with the goals, policies and standards of WEWP.

Western Amazon Drainage Basin

This area is shown on Map 2. Other than statements in this section, the Western Amazon Drainage Basin is not intended to be affected by any portion of the Plan.

This area is included in the Plan to identify lands which may be available to help meet mitigation needs within the West Eugene Wetlands Study Area and the greater Eugene region. Land acquisition in this area will occur only from willing owners who choose to sell land after an independent appraisal has been obtained which determines the fair market value of that land. Owners may choose to sell land outright, sell a conservation easement, or donate land under a voluntary program. There is nothing in this

Plan which prohibits owners from participating in a regional mitigation bank or seeking to sell mitigation credits or rights on the open market.

Goal

- 4.7 Allow some of the region's wetland mitigation needs to be met through enhancement and restoration of wetlands in the Western Amazon Drainage Basin.

Policies

- 4.28 Use cooperative arrangements with private land owners to acquire lands, conservation easements, or land donation through voluntary programs and negotiations with willing sellers.
- 4.29 Seek restoration and enhancement of wetlands for mitigation purposes based on the following factors:
a) presence of hydric soils, b) indication of past wetland conditions, c) proximity to water features, d) proximity to the floodplain, and e) capability of providing adequate wetland hydrology.
- 4.30 Attempt to minimize impacts of the mitigation program on adjacent uses by providing buffers within the boundaries of land purchased and enhanced or restored or through cooperative programs which are acceptable to adjacent land owners.

Recommended Action

- 4.9 Use cooperative arrangements with private land owners to implement this Plan. Keep affected parties informed of the Plan implementation and amendment process.

